

APPROVED MINUTES
CITY OF MILPITAS

Minutes:	Regular Meeting of Milpitas City Council (Including Joint Meeting with Redevelopment Agency)
Date of Meeting:	July 1, 2003
Time of Meeting:	6:30 p.m. (Closed Session) 7:30 p.m. (Regular Session)
Place of Meeting:	City Hall Council Chambers, 455 E. Calaveras Blvd.

ROLL CALL

Mayor Esteves called to order the regular meeting of the Milpitas City Council at 6:30 p.m. Present were Mayor Esteves, Vice Mayor Dixon, and Councilmember Polanski. Councilmember Livengood arrived during the Closed Session. Councilmember Gomez was absent due to a family emergency.

CLOSED SESSION

Mayor Esteves publicly stated the Council would convene in Closed Session to discuss the following item listed on the agenda:

1. CONFERENCE WITH LABOR NEGOTIATOR

(Pursuant to Government Code Section 54957.6)

Agency Negotiators: Tom Wilson, Cherie Rosenquist, and Eddie Kreisberg

Unrepresented Position: City Attorney

Employee Organizations: IAFF Local 1699, LIUNA, MEA, MPOA, MSA, ProTech, and Unrepresented

Mayor Esteves adjourned the meeting to closed session at 6:31 p.m.

The City Council meeting reconvened at 7:30 p.m. with Mayor Esteves presiding and Vice Mayor Dixon and Councilmembers Polanski and Livengood present. Councilmember Gomez was absent.

**CLOSED SESSION
ANNOUNCEMENTS**

There were no closed session announcements.

PLEDGE

Mayor Esteves led the Council and audience in the Pledge of Allegiance.

Mayor Esteves announced that this meeting was being broadcast on the City's radio station and on the City's web site (video streaming) for the first time.

MINUTES

MOTION to approve the City Council minutes of June 3 and 17, 2003, including joint meetings with the Redevelopment Agency, as submitted.

M/S: Dixon, Polanski.

Ayes: 4

Absent: 1 (Gomez)

SCHEDULE

Vice Mayor Dixon noted the VTA Financial Ad Hoc Committee would be meeting in August and she would get those dates for the August calendar. Councilmember Polanski reported the July 7 Parks, Recreation, and Cultural Resources Commission meeting was canceled and so was the July 24 meeting of the Terrace Gardens Board.

MOTION to approve the Schedule of Meetings as amended.

M/S: Polanski, Dixon.

Ayes: 4

Absent: 1 (Gomez)

PRESENTATIONS

Gordon Siebert, on behalf of the American Public Works Association (APWA), presented the City with the APWA 2002 Project of the Year Award for the SR-237/I-880 Interchange stating that each year the Association looks for an unusual project that not only solves an unusual problem, but solves it in an unusual way; this project was selected for the quality along with the integrity, sensitivity, and consideration of all those who now use it everyday.

City Engineer Mike McNeely commented that this was a partnership between the City of Milpitas, Caltrans, VTA, and Mark Thomas Company, the project designer.

Mayor Esteves read a proclamation proclaiming July 2003 as “Parks and Recreation Month” in the City of Milpitas, and presented it to Recreation Manager Bonnie Greiner.

Mayor Esteves read a commendation commending Justin Lim, student at Russell Middle School, as the winner of the Santa Clara Association of Realtors Essay Contest winner for the 7-9 grade level, and it was the first time a resident of Milpitas had won. Mayor Esteves also congratulated Justin’s parents.

Santa Clara County Supervisor McHugh recognized and congratulated Justin for his accomplishment and the credit he brought to the community and presented him with a plaque.

Janet Koval, Santa Clara Association of Realtors President-Elect, on behalf of Congressman Honda, presented Justin with a commendation from the U.S. House of Representatives.

Mayor Esteves recognized the sponsors of the contest who were present: (Paul Stewart, CEO and Director of Government Affairs; Mike Donahue, President; Board of Director Ray Maglalang), thanked them for sponsoring the contest for young people, and stated it brought great potential and accomplishment for young people like Justin. Mayor Esteves further stated that he looked forward to working with the Santa Clara Association of Realtors Board for a good community project.

Mr. Donahue stated the contest had been sponsored with the Association of Northern California Realtors; the entrants were from all over northern California; and when they looked at affordable housing and housing opportunities, it was discovered that by letting the children speak about what a home means to them, much more was discovered than by going out and compiling statistics.

Ray Maglalang, representing the Santa Clara Association of Realtors Board, presented Justin with gift certificates from businesses around the City (McDonald’s; Sushi Lovers; and Calaveras Shell Car Wash).

CITIZENS FORUM

Mayor Esteves invited members of the audience to address the Council on any subject not on the agenda, requesting that remarks, including any visual or technology-assisted presentations of any kind, be limited to two minutes or less, and noted that the City Clerk would be using the timer and when the red light at the podium came on, two minutes would be up.

Mike Baker, President, Youth Soccer Club, asked the Council to review the City’s field permit allocation policy to give non-city administered programs a higher priority for use of the City’s fields. Mr. Baker said his organization was a non-profit with 350 kids and 30 teams but because their program wasn’t administered by the City, it received a lower priority for use of the fields.

Mareile Ogle, Arts Commissioner, said the Arts Commission would like a detailed and comprehensive report on the controversial switch in sites for the new library and new senior center.

Lorraine Hepworth, Chair, 2003 Relay for Life, thanked the Council and everyone for supporting this year’s Relay and reported \$83,413 had been raised and more was still coming in. Ms. Hepworth commented on the Relay noting that the Police had 56 participants on five teams and Building Inspector Dorsey Wiseman challenged his team that if they raised \$1,000, he would walk the entire time, which he did. Ms. Hepworth presented the Council with a plaque in recognition of the City’s continuing support in the fight against cancer. Mayor Esteves thanked Ms. Hepworth for her contributions to Milpitas and to the American Cancer Society.

Don Ryan, Milpitas Executive Lion's Club, invited everyone to participate in the "Celebration of Freedom" poster contest and noted that prizes would be awarded after the July 4th parade.

Don Peoples, representing the Milpitas Downtown Association and Milpitas Rotary Club, invited everyone to the Street Faire following the July 4th parade.

Steve Munzel thanked the City for creating a culturally sensitive area on N. Main Street by tenting the DeVries House for termites.

Yollette Merritt and Chuen Lin invited everyone to a reception for an exhibition of Chinese arts and calligraphy at the Community Museum on July 8, commenting that the exhibit would continue to July 20.

Art Swanson talked about the Hindu number system and the contributions given the world by the Indian culture.

Lordia Fok thanked the Council for its support of the PTSA scholarship program, commenting that she received \$500 and would be using it to attend Cornell University.

ANNOUNCEMENTS

Councilmember Polanski reported she had toured the new India Community Center on Los Coches and suggested members of the community tour it as well; thanked the Milpitas Alliance for the Arts and City staff for the Murphy Park art presentation; thanked Vice Mayor Dixon for a great job as the MC for the Milpitas Chamber's "Business of the Year" banquet; and announced the Terrace Gardens Board of Directors was looking for two new members.

Vice Mayor Dixon, referring to the Art in the Park event at Murphy Park, said it was a great event which tied into the Summer Concerts that would be held at Murphy Park; referring to the saw horses surrounding the Art placed at Murphy Park, informed the public there was an issue as to placement of the legend plaques on the ground and staff was working on making it user friendly so people won't trip on the plaques; she was honored to be invited to be a part of the welcoming group for the Prime Minister of British Columbia who is a member of the Sikh Community; she was also honored to install the 2003/2004 Chamber of Commerce Board of Directors; and congratulated the Person of the Year, Jennifer Cullenbine. Vice Mayor Dixon further stated she would be going to the Santa Clara County Emergency Preparedness Council and Operational Area Council, which would be reviewing and approving a letter opposing the current California Homeland Security Funding Plan, and would also be dealing with the next phase of the County-wide plan for coordinating spontaneous volunteers.

Mayor Esteves congratulated Discovery Land Preschool on its playground construction; congratulated the Seventh Day Adventists for sponsoring International Day; congratulated the Calvary Chapel for opening its church in Milpitas; and said he had the honor of receiving the new Counsel General of Bolivia.

AGENDA

Councilmember Polanski asked that item 7 (50th Birthday Celebration Plan) be moved to the first item of business after the public hearings.

MOTION to approve the agenda as amended.

M/S: Dixon, Polanski

Ayes: 4

Absent: 1 (Gomez)

CONSENT CALENDAR

Mayor Esteves inquired if anyone wished to make any changes to the Consent Calendar.

City Manager Wilson noted that item 24 (Renewal of Workers' Compensation Insurance) also required approval of a budget appropriation from the Contingency Reserve but the item could remain on the Consent Calendar.

Councilmember Livengood, referring to item 17 (Agreement between property owners, City of San Jose, and City of Milpitas regarding utilities), commented it had originally been

scheduled for the first meeting in August; he had asked the City Manager to move it up and thanked him and his staff for getting it ready for this meeting.

MOTION to approve the Consent Calendar, items with asterisks on the agenda, as amended to include approval of a budget appropriation for item 24, in accordance with the staff recommendations.

M/S: Dixon, Polanski

Ayes: 4

Absent: 1 (Gomez)

***5.
CAC Appointment**

Approved the Mayor's appointment of Nestor Luna to the Community Advisory Commission to fill an existing vacancy in the Alternate No. 4 position with a term expiring January 2005.

***10.
Meyers Nave Agreement**

Authorized cost recovery program for legal services associated with development applications for development projects other than an individual single family residential unit and authorized Amendment No. 4 to the agreement for legal services between the City and Meyers Nave.

***11.
Great Mall Sign Lease**

Approved the Consent to Assignment and Assumption of the Sign Lease from Great Mall of the Bay Area, Associates, L.P. to The Mills Limited Partnership, and authorized the City Manager to execute it on the City's behalf.

***12.
Ordinance No. 23.9**

Waived full reading of the ordinance and adopted Ordinance No.23.9 amending Chapter 2, Title I of the Milpitas Municipal Code.

***13.
2001 Street Resurfacing
(Project No. 4182)**

Adopted Resolution No. 7330 granting initial acceptance subject to a one-year warranty period and reducing the faithful performance bond to \$218,914.95.

***14.
McCandless Box Culvert
(Project No. 4182A)**

Adopted Resolution No. 7331 granting initial acceptance subject to a one-year warranty period and reduction of the faithful performance bond to \$3,562.38.

***15.
Temporary Suspend
Section 6.02 of Personnel Rules**

Adopted Resolution No. 7332, authorizing staff to temporarily suspend the two-year Employment List rule and extend an additional year through June 2004 for the Firefighter List.

***16.
Intergraph Corporation**

Authorized the City Manager to approve the 5th Amendment to the Master Service extending the term through June 2004 between Intergraph Corporation and the City of Milpitas to provide continued development of the Milpitas Geographic Information System through June 30, 2004.

***17.
Water and Sewer Services
Outside City Limits**

Authorized City Manager to execute agreement with City of San Jose and property owners to provide water and sewer services to the area outside the city limit on N. McCarthy Boulevard through the City of San Jose subject to approval as to form by the City Attorney.

***18.
HMH Incorporated
(Project No. 4179)**

Authorized the City Manager to execute the agreement amendment with HMH Incorporated, in the amount of \$6,850, subject to approval as to form by the City Attorney.

***19.
Irvine Development Company
Program 9474**

Approved amendment to the landscape maintenance agreement with the Irvine Development Company for the maintenance of a portion of public landscaping along the frontage of its development located on N. McCarthy Boulevard, and authorize the City Manager to execute the same, subject to the approval as to form by the City Attorney.

***20.
Sugimura & Associates
(Project No. 4179)**

Authorized the City Manager to execute the agreement amendment with Sugimura & Associates for the Montague Expressway widening (Project No. 4179), in the amount of \$3,450, subject to approval as to form by the City Attorney.

***21.**

Authorized the City Manager to approve a change order to SBC in the amount of \$9,300 for

**SBC Datacom
(Project No. 8093)**

the installation of fiber optic cable to Fire Station 2 (Project No. 8093).

***22.
Senior Center Building
Consulting Services**

Authorized the City Manager to execute a professional services contract with B A Zuhdi Consulting Engineers to provide staff support and assistance with technical specifications, AutoCAD drawings, structural analysis and engineering, commercial kitchen layout and design which is compliant with the County health codes, quantity take-offs and engineering estimates for interim Senior Center, in an amount not to exceed \$50,000, subject to approval as to form by the City Attorney.

***23.
Fremont Tennis Center**

Approved contract for City of Fremont Tennis Center to provide tennis lessons through Milpitas Recreation Services from July 1, 2003, and to June 30, 2004.

***24.
Excess Workers'
Compensation Insurance**

1. Approved acceptance of ACE American Insurance Company for the City's excess workers' compensation insurance for FY 2003-2004, authorizing staff to pay Cal-Surance the premium rate of \$179,737.
2. Approved contract change order in the amount of \$179,737.
3. Approved a budget appropriation in the amount of \$118,737 from the Contingency Reserve.

***25.
Interim Senior Center
Site Improvements
(Project No. 8151)**

1. Approved plans and specifications.
2. Authorized advertising for bid proposals.

***26.
Senior Nutrition Contract**

Approved the contract with County of Santa Clara (Social Services) for July 1, 2003, through June 30, 2004. The total amount of this contract is \$125,838, with the City and County each responsible for one half of the amount or \$62,919, not to exceed \$3.55 per meal.

***27.
2003 Street Slurry Seal
(Project No. 4182)**

1. Approved plans and specifications
2. Authorized advertising for construction bid proposals.

***28.
Hardware Support and
Maintenance Agreements**

Authorized the City Manager to approve the following seven Service and Consultation Agreements, subject to approval as to form by the City Attorney.

HDL Software, LLC. For Business License System	\$5,800.00
Data911 for Mobile Computing Hardware installed in Police Vehicles	\$7,440.00
Principal Decision Systems International for TeleStaff System	\$2,646.00
Peelle Technologies, Inc. for Document Imaging System not-to-exceed	\$15,000.00
American Management Systems, Inc. for Budget System	\$5,675.74
Intergraph Corporation for Geographic Information System	\$16,595.00
Identix, Inc. for Livescan Fingerprinting System	\$5,417.83

***29.
FileMaker Pro Upgrade
(Project No. 8109)**

Authorized the upgrade of fifty FileMaker Pro software licenses to version 6.0 in an amount not to exceed \$8,500.

***30.
Animal Control Services**

Authorized City Manager to execute the contract agreement with the City of San Jose to provide Animal Control Services in the amount not-to exceed \$172,102 for FY 2003-2004, subject to approval as to form by the City Attorney.

***31.
Curbside Recycling Bins**

Awarded the bid for the purchase of the recycling bins to the lowest bidder SCL A-1 Products, in the amount of \$34,538.25, including tax and shipping.

***32.
Park Playground Equipment**

1. Awarded the contract to DK Environmental with the inclusion of add alternates in the amount of \$535,787.00

(Project No. 5077)

2. Authorized the City Manager to execute a purchase order through State Contract No. 4-00-78-00010A for playground equipment by Little Tikes Commercial Play Systems Inc., in an amount of \$206,316.89.

***33.
Traffic Signal
(Project No. 4212)**

Awarded the contract to Mike Brown Electric for traffic signal at Barber Lane and Bellevue Drive (Project No. 4212), in the amount of \$214,887.

***34.
Microfilm Reader/Printer**

Awarded the bid for the microfilm reader/printer to Minolta Business Solutions, Inc. in the amount of \$11,367.07.

***35.
Emergency Repair
(Project No. 6057)**

1. Approved a budget appropriation of \$133,000 from the sewer reserve fund to the Miscellaneous Minor Sewer Projects No.6057.
2. Authorized payment of invoices for emergency repair of pavement subsidence at North McCarthy Boulevard.

***36.
Miscellaneous Vendors**

Approved the following purchase requests:

1. \$7,015.04 to Dictaphone Corporation for annual maintenance of the 911 voice/logger recorder system for the Police Department. (Funds are available from the fiscal year 2002/03 Police Department operating budget for this service.)
2. \$75,200.00 to the U. S. Postal Service for the annual replenishment of postage meter funds for the City's outgoing metered mail for the Purchasing Division. (Funds are available in the current year Finance Department operating budget for this purchase.)
3. \$24,000.00 to the Milpitas Unified School District for the City's share of secretarial services for the Youth Services Bureau for the Police Department. (Funds are available in the current year Police Department operating budget for this service.)
4. \$5,178.68 to Citation Press for the printing and folding of 5,000 copies of the revised City's bicycle map for the Bicycle Transportation Advisory Committee. (Funds are available from the Misc. Minor Traffic Projects [Project No. 4024] for this purchase.)

***37.
Payroll Registers**

Approved Payroll Registers for the periods ending May 31, 2003, in the amount of \$1,580,378.45, and June 14, 2003, in the amount of 1,568,966.94.

PUBLIC HEARINGS

**1.
Entertainment Event Permit
Art & Wine Summer Festival**

City Clerk Gail Blalock reported before the Council was an application from the Milpitas Chamber of Commerce for an Entertainment Event Permit for the Annual Art and Wine Summer Festival to be held on Saturday and Sunday, August 16 and 17, from 10:00 a.m. to 6:00 p.m. each day; the festival would be located on Milpitas Blvd, between Los Coches and Turquoise Streets, and would continue west on Los Coches Street as it did last year. Ms. Blalock further reported the Chamber was also requesting waiver of the permit fees and business license fees required for the two-day event. Ms. Blalock noted the placement of a banner near City Hall was included in the request; however, with the new City Hall building, there was no place to hang a banner and this had been conveyed to the Chamber staff. Ms. Blalock said the application had been reviewed and approved by the various City departments and staff recommended approval of the request, subject to the conditions noted; members of the Chamber were present to answer questions and to comment on the event.

Vice Mayor Dixon commented that she was hopeful the City's new electronic message board would be available two weeks prior to the event. City Manager Wilson reported the old marquee was just removed and the new message board should be installed by July 11. Ms. Blalock asked that use of the electronic message board be included in the motion, assuming that use of the marquee would follow the previous policy where all requests would have to be approved by the Council.

Tim Howard, Chair of the Art and Wine Festival, thanked the Council for its past 15 years of support and summarized, for the benefit of the audience, that the festival would include entertainment on two stages, 130 artisans, 14 food booths, lots of different things to do, was a great opportunity for the community to come out, and was a multi-cultural event. Mr. Howard said that the condition requiring a \$500 cleaning deposit concerned him because they try to leave the area cleaner than they find it and asked if there had been a problem in the past or where that condition came from. City Manager Wilson responded it was a provision that may have been overlooked in the past but it has been a requirement, the Council had the ability to waive it, but staff was trying to be diligent with all special events.

Mayor Esteves opened the public hearing and invited comments. There were no comments.

MOTION to close the public hearing.

M/S: Dixon, Livengood

Ayes: 4

Absent: 1 (Gomez)

MOTION to waive the permit fees, business license fee requirements, and cleaning deposit and approve the Entertainment Event Permit for a Summer Festival on August 16 and 17, 2003, as requested by the Milpitas Chamber of Commerce, subject to the conditions noted and receipt of a certificate of insurance, and including use of the City's electronic message board to publicize the event.

M/S: Livengood, Dixon.

Ayes: 4

Absent: 1 (Gomez)

**2.
Density Bonus and
Negative Declaration
Apton Plaza**

Principal Housing Planner Felix Reliford explained that the item before Council was approval of the density bonus, environmental documents, and upholding the Planning Commission's decision on the 'S' Zone and Use Permit applications for the proposed development at Apton Plaza; the appeal of the item was done solely for the purpose of edification and to better understand how the density bonus was incorporated into the design aspects; and staff was in support of the project and recommended that the Council uphold the Planning Commission approval. Mr. Reliford further explained that the Apton Plaza project was a mixed use development located at the corner of Weller Lane and North Main Street; it was 6,000 sf of commercial retail development on the first floor, parking on the second, and 102 units on the other three stories; the developer had requested a 15% density and two concessions (exceeding the four-story height limitation by going five stories, and reduction in setback requirement from 18 feet to 16 feet along Weller Lane); in return, the developer had met Criteria No. 2 of the State Density Bonus Law (a total of 10%, or 9 units, would be available of the 89 units prior to the Density Bonus for very low income households); the developer had also agreed to provide five low and four moderate income affordable housing units. Mr. Reliford acknowledged other staff members who had worked on the project.

Vice Mayor Dixon complimented staff and the applicant on a great job; thought it will be a great addition to the City and would be the anchor for the northern end. Vice Mayor Dixon, referring to the drawing, inquired if all the units had washer/dryer facilities. Ms. Pereira responded a washer/dryer laundry room would be found on each floor of the residential levels.

Councilmember Livengood inquired what was being done with offsite parking. Ms. Pereira responded parking would be provided along the North Main Street frontage, which would not be limited to the development nor would it be striped. Councilmember Livengood inquired if that was proposed to be part of meeting parking requirements. Ms. Pereira said it was in addition to. Councilmember Livengood, addressing the height of the project, inquired if the project would be five stores or just the height of five stories. Ms. Pereira said that it was five stories by definition; however, it was not the full height of a five story building, it was more like 4-1/2 stories as the underground parking level was approximately five feet underground and seven feet above ground.

Councilmember Livengood, addressing the current Senior Center site, inquired how this project would be impacted. Project Planner James Lindsay said there would be some great synergy between this project and the library; he felt it would be a great compliment. Councilmember Livengood said he wanted to make sure that it was taken into consideration that a Library at this location would be a more interactive use than a Senior Center and expressed concern about the potential parking problems. Mr. Lindsay said that the project stood alone, could park on its own, and the Library would have the same requirements that it would park on its own.

Councilmember Polanski, addressing the first floor retail, inquired how it was decided where the retail would end. Mr. Reliford said it appeared to be a marketing issue and requested the developer respond to the question.

John Maple, representing Maple Dell & McClelland Architects, LLP, Walnut Creek, stated he had been working with the City's senior staff since February 2001; were in the process of continuing to work with the Planning Commission, Design Committee, City Manager, and Senior staff Mr. Lindsay; referencing the development of the land swap and the street, stated Windsor was being realigned actually improving the flow of traffic to make it work, which was now going to be part of the parking structure; referencing retail, stated were trying to make the corner of N. Main become vital; and would like to identify the retail in the traffic pattern on the sidewalk and in the signage, keeping it as subliminal as possible.

Mayor Esteves, addressing the proposed roofing, inquired what material would be used. Mr. Maple said it needed to be a Class A roof, non-reflective, and have multiple colors but it had not yet been decided. Mayor Esteves requested clarification that composition shingles were not going to be used. Mr. Maple assured the Mayor that composition shingles would not be used.

Mayor Esteves opened the public hearing and invited comments.

Steve Munzel, Parks, Recreation, and Cultural Resources Commission (PRCRC) Chair, said that the project was the original site of the Weller Ranch with a cultural resource located on the site (the Weller Palm); the PRCRC, by Ordinance, must issue a permit for any work done around designated Cultural Resources, and the PRCRC had not been approached by staff or any developer regarding a permit for the Weller Palm; and inquired if the Palm had been removed. Ms. Pereira responded the Palms were proposed to be incorporated into the project; the two largest Palms were proposed to be located at the project's front corner at N. Main and Weller; the remaining Palm was a Yucca Palm and she believed there were two others that were proposed to be placed at the garage entrance on Railroad Court; and a condition had been added in the Planning Commission report to receive any permits prior to removal; however, the Palms would be incorporated into the project.

Mr. Lindsay said he appreciated Mr. Munzel's concerns about the historical resources and staff would follow-up on the Weller Palm to verify it was Cultural Resource; he assured Mr. Munzel that any modifications to a Cultural Resource would go through the Parks, Recreation, and Cultural Resources Commission for permit issuance.

Rob Means, Milpitas, expressed concern regarding the traffic congestion that may arise; felt the EIR indicated there would be a drop in the level of service in one of two nearby intersections; and felt there would be some critical mass and serious problems with traffic flow in the area.

MOTION to close the public hearing.

M/S: Dixon, Livengood.

Ayes: 4

Absent: 1 (Gomez)

MOTION to uphold the Planning Commission's approval of "S" Zone No. P-SZ2002-6 and Use Permit No. P-UP2002-35 applications and approve the requested density bonus and

Negative Declaration (P-EA2003-1), subject to the Findings and Recommended Special Conditions included in the Council's agenda packet.

M/S: Dixon, Livengood.

Ayes: 4

Absent: 1 (Gomez)

**3.
Ordinance No. 38.762
Massage Services
(Introduce)**

Planning Manager Tambri Heyden reported on June 17, 2003, the Council adopted an amendment to the Massage Practitioners Code and the Ordinance before the Council would tighten the Zoning Code, which regulates the location where massage uses are permitted; makes clear where massage as an accessory use would be permitted, and was patterned after the Massage Code. Ms. Heyden further reported it would limit massage in salons and barber shops and healing art practices to massage of the head, neck, and shoulders only. Ms. Heyden said no public comments had been received regarding the Negative Declaration and the Planning Commission reviewed the proposed amendments on June 11, 2003, and recommended approval.

Councilmember Livengood inquired if the ordinance would have an impact on the massage equipment located at the Mall. Ms. Heyden responded that it would not.

Mayor Esteves inquired if the ordinance would impact one-time demonstrations (i.e., fair). Ms. Heyden said that would fall under a Special Event permit as a temporary use.

Mayor Esteves opened the public hearing and invited comments. There were not requests.

MOTION to close the public hearing.

M/S: Dixon, Livengood.

Ayes: 4

Absent: 1 (Gomez)

Ms. Heyden read the title of Ordinance No. 38.762 adding a new subsection 54.21 to Chapter 10, Title XI, of the Milpitas Municipal Code entitled "Massage Services as Accessory Uses."

MOTION to waive reading beyond the title and introduce Ordinance No. 38.762.

M/S: Polanski, Livengood.

Ayes: 4

Absent: 1 (Gomez)

**7.
50th Birthday Celebration**

Principal Analyst Cindy Maxwell reported that the Committee created to provide guidance on planning and implementation of the City's 50th Birthday/Anniversary Celebration was comprised of 22 members with at least one member from each of the City's commissions and committees; Councilmember Polanski was the Council liaison; the Committee had developed a Celebration Plan; one of the principles the Committee worked with was that it would make sure that any celebration activities or events would be cost effective, being conscious of the City's fiscal responsibilities; the Committee was suggesting a modest birthday party on January 26, 2004, in the evening to be held in the Council Chambers; the 50th theme would become part of the 4th of July celebration in 2004 and become a bigger, more festive party that the community could participate in. Ms. Maxwell further stated that the Committee was recommending there be a special program that would allow community groups to participate in and effectively become a monthly sponsor.

Ms. Maxwell further reported that the Committee estimated a budget of \$48,250 would be required; there had also been a proposal by the Milpitas Post to assist the City in the preparation of an Historical Book; a design contest for the 50th Birthday logo had also been created by the Committee; and the four finalists selected by a subcommittee were presented to the Council with the Committee's recommendation that entry "A2" be declared the winning entry.

Councilmember Polanski said most of the 22 members had attended most of the meetings; it was a very active/productive committee and they wanted to continue working on the project into 2004; felt the Committee was very physically prudent in looking at ways for the City to

celebrate its 50th and to incorporate the celebration with other events; shared a replica of the proposed Historical Book; and expressed appreciation to all the Committee members.

Councilmember Livengood said he was glad to see that the community had come together with the leadership of Councilmember Polanski and others to put together a list of what looked to be exciting events and commented that he liked the idea of a Historical Book and the Milpitas Post's participation.

Councilmember Polanski clarified that one of the concepts of the Historical Book would be cost recovery by having businesses in the City pay to have a company profile placed in the book or placement of ads and revenue generated from the sale of the book.

Councilmember Dixon said she felt this was something that would galvanize the whole community; she wanted to pursue the book; and inquired if the Post would start its history on the City's birth date as of January 1954 or if the Post had a wealth of information prior to 1954. Milpitas Post Editor Rob Devincenzi said the Post had both but he felt the emphasis on the book should be from incorporation onward. Councilmember Dixon said she felt it important to go back prior to the 1954 incorporation in order to understand the great fight that happened leading up to 1954 to not be annexed into San Jose; she viewed the birthday as when the community first came together and the 50th more of an anniversary from the date of incorporation. Vice Mayor Dixon expressed her full support for the project. Mr. Devincenzi said he appreciated the support and felt it would be a very worthwhile effort.

Mayor Esteves expressed appreciation to the Committee for being conscious of staying within the estimated costs. Mayor Esteves said he would like to see a permanent commemoration that would be more visible like the size of a monument and suggested possibly increasing the number of trees to be planted on Arbor Day for a grand look. Councilmember Polanski said that 50 trees had been looked at; however, the Committee was not sure where that number of trees could be placed at one time; cost was also a factor; the Committee felt that one tree with a plaque would save money; and suggested that five trees may be appropriate. Mayor Esteves said he would like the Committee to consider having more than one tree.

Vice Mayor Dixon asked for a discussion as to whether the event should be looked at as a Birthday or an Anniversary, and with respect to the logo, she was not impressed with the suggested winner and was looking for more depth for the logo such as what the community was and what it is today.

Ms. Maxwell clarified that the recommendation from the Committee was that it also included a request that the lettering used for the "City of Milpitas" be improved upon for better legibility when it is reduced.

Lordia Fok said the subcommittee felt the chosen logo was the best one as it could be made smaller, was easy to reproduce, was good on letterheads or letter bottoms as it would not block anything out, felt there was a nice style to it that was contemporary and jazzy, would be easy to place on banners, and could be digitalized and placed on a website.

Councilmember Livengood commented that his first choice would not be the one recommended and a problem with it was that you lose the impact of the "City of Milpitas"; he liked the one on the bottom right as he felt it was more classical and he liked the banner.

Councilmember Polanski said she thought there were some modifications that could be made and suggested the Committee work with the artist to make some changes, such as the font, and bring them back to the Council. Mayor Esteves said it was a very subjective decision but he preferred the recommended logo because he saw some originality.

Councilmember Livengood suggested, and noted he thought Councilmember Polanski was also suggesting, that the logos be brought back to the Council with a combination of those submitted, using a bolder font and a bolder "50" over the ribbon; and also suggested looking

at screening back a little of the “50”; if the “City of Milpitas” was going to be covered with the “50,” the “50” needed to be screened back in order that the “City of Milpitas” would come across stronger.

Mayor Esteves asked if delaying this would affect the Committee’s timeline. Ms. Maxwell responded that a decision on the design was needed in order to incorporate it into the City calendar and she thought early August would work. Councilmember Polanski confirmed the need to make a decision by the August 5 Council meeting.

Mayor Esteves expressed concern that this was a contest and expressed concern that the Council was altering the original designs submitted for the contest. Ms. Maxwell noted that the two designs under consideration were submitted by the same artist.

Mayor Esteves asked for comments on whether the celebration should be called a “birthday” or “anniversary.” Councilmember Polanski said the Committee had a lot of discussion about this and would not have a problem with whichever designation the Council made; the Committee was looking for the Council to approve the concept of collaborating with the Milpitas Post on a historical book, accepting the work plan, and having staff bring back a budget appropriation and the details on the concept. Vice Mayor Dixon said she would be supportive of that but if it was going to be referred to as a “50th Birthday,” the Committee needed to make sure that people understand that it is for the incorporation and she looked to the Committee to also work with the Post to get the earlier historical information. Mayor Esteves asked if the Committee voted on birthday or anniversary? Councilmember Polanski said the Committee discussed it and voted to call it a “birthday” celebration. Councilmember Livengood said there needed to be a clarification as to what the “50” was in the design, he thought most people would refer to it as a “birthday”, there might be some advantages to using “anniversary” too, but either one was okay but felt most people relate more to “birthday.” Mayor Esteves commented that in his culture, “anniversary” was more grand and that was why he favored “anniversary.” Vice Mayor Dixon said she agreed with the Mayor that “anniversary” held more importance (i.e., there is only one golden anniversary celebration).

MOTION to:

1. Approve the 50th Anniversary Celebration Plan as proposed by the 50th Committee (using “Anniversary” instead of “Birthday”);
2. Direct staff to return to the City Council during FY 2003-04 with a budget appropriation request of \$48,250 to fund the 50th Anniversary Celebration Plan;
3. Approve the concept of collaborating with the Milpitas Post on a historical book to commemorate the City’s 50th anniversary and instruct staff to return at the next Council meeting with a detailed project proposal including costs; and,
4. Direct staff to bring back Exhibits A2 and A4 logo designs with the modifications suggested by the Council for final Council approval on August 5, 2003.

M/S: Polanski, Dixon.

Mayor Esteves inquired if the budget could be \$50,000, and if there were extra left over, it be donated. Councilmember Polanski felt that \$50,000 for the 50th celebration was appropriate. Vice Mayor Dixon agreed.

VOTE ON MOTION (changing the amount to \$50,000): Ayes: 4 Absent: 1 (Gomez)

RECESS

Mayor Esteves recessed the City Council meeting at 9:25 p.m. The City Council meeting reconvened at 9:35 p.m.

JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA1. CALL TO ORDER

Mayor Esteves called to order the regular meeting of the Milpitas Redevelopment Agency, meeting jointly with the City Council, at 9:35 p.m.

**RA2.
ROLL CALL**

Present were Mayor Esteves, Vice Mayor Dixon, and Agency/Councilmembers Livengood and Polanski; Agency/Councilmember Gomez was absent.

**RA3.
MINUTES**

MOTION to approve the Redevelopment Agency minutes of June 3 and 17, 2003, including joint meetings with the City Council, as submitted.

M/S: Livengood, Dixon.

Ayes: 4

Absent: 1 (Gomez)

**RA4.
AGENDA**

City Manager Thomas Wilson reported staff intended to include item RA5 (Review Project Closeout Progress) on the Consent Calendar.

MOTION to approve the agenda and Consent Calendar as amended to add item RA5 to the Consent Calendar.

M/S: Livengood, Polanski.

Ayes: 4

Absent: 1 (Gomez)

**RA6.
AGENCY LOAN PAYOFF**

Accounting Services Manager Jane Corpus reported in November 1998, the Agency Board approved a \$1 million loan at an annual interest rate of 6.35% to PWA Associates, LLC (PWA), developer of the Parc Metro housing development; the loan was funded from the Agency's 20% set-aside fund in exchange for affordability restrictions on 68 units of low and moderate income multi-family housing; under the loan terms, the Agency's loan would be repaid from 35% of the surplus cash generated from the rental income after the development satisfied its principal debt payments and operating expenses. Ms. Corpus further reported that to date, PWA had not made any interest payments on the loan due to insufficient surplus cash; the outstanding loan balance at the end of June 2003, including principal and interest, was approximately \$1.3 million; PWA requested to pay off the outstanding balance in its entirety at approximately a 30% discount rate of the outstanding loan balance; and the proposed pay off amount was \$895,000. Ms. Corpus said that based on the current cash flow and an assumption of 3% annual increase in both revenue and expenses, staff estimated that the Agency's loan would be in a negative amortization situation until the year 2031, which meant that PWA would not be able to reduce the principal of \$1 million until 2031; and staff recommended the pay off of the Agency's loan based on the reasons listed on the agenda.

Councilmember Livengood inquired how the 68 units were broken down. Principal Housing Planner Reliford responded the Council had approved 35 Low and 33 Moderate with one of the moderate units being for the resident manager.

Vice Mayor Dixon said although she would prefer to have the full amount, she thought it was a good deal for the City to end up with almost \$900,000 in hand that could be applied to other affordable units and was a small investment on the part of the City.

Mayor Esteves said he wanted to validate staff's assumption that the 3% annual increase in both revenue and expenses was how the negative amortization until 2031 was determined and inquired as to how staff came up with the 3%. City Manager Wilson said he had reviewed the analysis Finance Director Emma Karlen had done, it was a little bit above the CPI for the last year, was a conservative number, the review also included information from the Apartment Association, the project was conceived in 1999 at the height of the market place, and the 3% was a flat projection. Mayor Esteves said he wanted to make sure the right process was taken and that we are not giving away what we deserve as a City. Mr. Wilson said another way to consider this was that the project was in place and the affordability on the project was for 55 years; the City would be receiving \$105,000 short of the initial loan commitment; however, for that the City will receive affordable housing for 55 years for 68 units.

MOTION to approve the request of PWA Associates, LLC to pay off the Agency's loan.

M/S: Dixon, Polanski.

City Attorney Mattas clarified that staff's recommendation was to accept the proposal as presented by CalProp and the staff report reflected the \$895,000 amount; the specific wording of the proposal was \$895,000 or net proceeds from the refinancing; and he wanted the record to be clear as to whether the Agency was anticipating getting \$895,000 or a greater amount if that was the net proceeds, but not a lesser amount than \$895,000.

Vice Mayor Dixon said the intent of her motion included "or greater".

VOTE ON MOTION to approve the request of PWA Associates, LLC, to pay off the Agency's loan (\$895,000 or greater): Ayes: 4 Absent: 1 (Gomez)

***RA5.
CIVIC CENTER UPDATE**

1. Adopted Resolution No. 7329 granting initial acceptance of contract work with Thyssen Elevator Corporation dba Thyssen Dover Elevator, subject to a one-year warranty period and reducing the faithful performance bond to 10% of each contract;
2. Approved contract change orders and purchase order included in the proposed change order summary sheet.

***RA7.
SERIES 2003 TAX
ALLOCATION BOND
FEASIBILITY CONSULTANT**

Authorized the Executive Director to execute a professional services agreement with Fraser & Associates/Lamont Financial Services for Fiscal Consultant/Financial Advisory Services in an amount not to exceed \$157,500, and Jones Hall for Bond and Disclosure Counsel Services in an amount not to exceed \$178,000 for each series of Bonds, subject to approval as to form by the Agency Counsel.

**RA8.
ADJOURNMENT**

There being no further Redevelopment Agency business, Mayor Esteves adjourned the Redevelopment Agency meeting at 9:04 p.m.

The City Council meeting continued.

REPORTS OF OFFICERS & BOARDS

**4.
Naming Fire Training
Class & Community Room**

Fire Chief Bill Weisgerber reported that the item concerned naming the Fire Training Class and Community Room at Fire Station 1 in memory of former Fire Chief Michael Harwood; Mayor Esteves had requested staff to coordinate with the Harwood family to determine a fitting recognition; staff reviewed the number of appropriate sites within the Fire Department and to incorporate elements of the community as well and felt the Training Class Room represented both the Fire Department and its service as a Community Room, which represented Chief Harwood's 20 years as the Fire Chief and 30 years in the Fire Service; it also created the most opportunity for viewing and was representative of Chief Harwood's time as a Training Chief with the Milpitas Fire Department.

Mayor Esteves said he had requested this be agendaized because he wanted to recognize former Fire Chief Harwood for his 20 years of service as a Fire Chief and more than 30 years as part of the City of Milpitas and felt Chief Harwood had a part in the growth of Milpitas.

Vice Mayor Dixon inquired if something similar to what had been done for Chief Murray was being looked at. Fire Chief Weisgerber affirmed that staff was looking at a plaque outside the door and a historical remembrance chronicling the career.

Councilmember Livengood, referring to the first time he became a Councilmember, recalled that Chief Harwood was one of the people who welcomed him to the City, was a gentleman, and felt what was being proposed was appropriate.

Councilmember Polanski felt this was an appropriate manner to remember Chief Harwood not only for his service as Fire Chief, but also for his 30 years in the Community.

Mayor Esteves said he felt that recognizing long-term services with the City was good in motivating and encouraging staff to continually provide extra ordinary services.

MOTION to approve conceptual remembrance to recognize Mr. Harwood's contributions to the City and directed staff to return with the final plans.

M/S: Esteves, Polanski.

Ayes: 4

Absent: 1 (Gomez)

**6.
City Council Policies**

Vice Mayor Dixon said this was something she had given a lot of thought to recently; as long as she had been involved with the City, there were many policies she didn't remember or were confusing and so she was proposing that the City Manager pull together all the Council policies made over the years and put them in a format that it would be an easy reference for the Council as well as the public.

Mayor Esteves inquired about a process for updating the policies. City Manager Wilson commented that normally there would be a review and a proposal on each policy that would be set by the Council and they would periodically come back for review to either confirm, modify, or delete them.

Councilmember Polanski commented that as a new Councilmember, this was excellent and would be helpful to her and it would also help staff.

MOTION to direct the City Manager to collect and organize the various adopted City Council Policies, present them for City Council review, and then publish them in a hard copy and electronic format.

M/S: Livengood, Dixon.

Ayes: 4

Absent: 1 (Gomez)

UNFINISHED BUSINESS

**8.
Library / Senior Center Sites**

Principal Civil Engineer Mark Rogge, referring to the Library project, reported the site selection process and the Needs Assessment had been done and the project was in the middle of the building program and site planning; following would be the design, construction, and occupancy; one of the site issues was that the new library needed about three times as much space as the current library and a multi-story parking structure would be needed; therefore, staff was recommending the Milpitas Library be relocated to 160 North Main Street and the existing Library building be remodeled for the Senior Center, which would resolve the space constraint problems with a significant cost avoidance to the projects while reducing the disruption to the community. Mr. Rogge said the plan was brought to the subcommittee and to various committees to find what was thought to best serve the community. Mr. Rogge further reported the benefits to the Library project was that the Historic building would be a centerpiece of the new Library that would be integrally incorporated into the Library building with additions; the Historic building designs and usage was well suited for a Library; the Library and parking structure fit well into the Midtown Plan; and the Library would be able to move directly to its new location without having to go to a temporary location. Mr. Rogge explained that this Plan avoided the need for property acquisition at the Civic Center, would attract residents to the Milpitas Midtown and eliminate disruption; it also preserved and allowed a large percentage of residents to enjoy the Historic building; the parking structure could be placed at the rear of the property which would provide a sound and visual barrier between the railroad tracks and the Library building; and part of the proposal before the Council was to start the landscaping and streetscaping along Main Street.

With respect to the Senior Center Project, Mr. Rogge explained that a rather large addition would have been needed if the Historic building was used; the "L" shape of the current Library was a good design for the Senior Center; staff was proposing to upgrade the current Library building and adding a porte -cochere drop-off point in the front of the building; and a kitchen area and additional rest rooms would be needed. Mr. Rogge said the architects felt this layout would be a more cogent layout for the seniors and explained the advantages including a cost savings by not needing a parking structure, having to temporarily relocate Library, or having to tear down the current Library. Mr. Rogge also explained that there

would be higher costs that would offset some of the savings but overall the total cost avoidance for both projects was approximately \$12 million.

Mr. Rogge further explained that public input was solicited; both the Library Advisory Commission and the Community Advisory Commission unanimously approved the recommendations; the Senior Facility Subcommittee also approved the recommendation unanimously; staff met with the Parks, Recreation, and Cultural Resources Commission Chair and Vice Chair at an information meeting; staff held a community meeting on June 30, 2003, which resulted in a very positive response; and staff would be holding an informational meeting with the Planning Commission on August 13, 2003.

Vice Mayor Dixon congratulated and thanked Redevelopment Projects Manager Armendariz and Principal Civil Engineer Mark Rogge for coming up with the recommendation. Vice Mayor Dixon, addressing seating accommodations, inquired if it would be financially prudent to think about adding onto the quadrant a facility for 500 vs. the 350 being recommended; and from what she had heard from the community, felt that everyone was overwhelming positive about the suggested sites.

Councilmember Livengood said he felt positive about the tremendous support the suggested sites had gained within the community; felt it was innovative thinking; saluted and commended everyone that came up with the idea and put it forward; felt it was a testament that the community was willing to be flexible and willing to change if it was for the betterment of the City.

Councilmember Polanski agreed with the comments that had been made; felt it was out of the box thinking; and commended staff for coming up with the idea.

Mayor Esteves said that as a member of both projects, he felt the City was closer to reality in accomplishing the two buildings; he liked the suggestion of expanding the auditorium up to 500; suggested looking at evaluating the area under the bridge as a potential parking space; and felt the proposed sites were very appropriate.

Councilmember Livengood, addressing the historical significance, felt the old Senior Center/Grammar School was one of the most classical buildings in Milpitas but, because it isn't seen by a lot of people, he thought it was an opportunity to take what was learned with the City Hall building and apply similar lighting to that building to make it really look beautiful.

Vice Mayor Dixon commented that the Milpitas Library was the second busiest library in the entire Santa Clara Library System; a lot had been learned in the building of City Hall; keeping the Civic Center team together to take on the two new projects was important; agreed with the lighting concept; and felt that it would be an appropriate site to incorporate some type of a real history room.

MOTION to

1. Approve the proposal to locate the new Library at 160 N. Main St. and locate the new Senior Center at the existing library building at the Civic Center.
2. Direct staff to continue with the pre-design studies considering the new locations of the Library and Senior Center, with the comments made by Council.

M/S: Dixon, Livengood.

Ayes: 4

Absent: 1 (Gomez)

NEW BUSINESS

9. On-Line Commercial Property Inventory

Assistant City Manager Blair King briefly reviewed the proposal to create a new web page that would be linked to the City's existing web site to allow individuals to search for commercial property in Milpitas. Mr. King explained owners and/or agents of any

commercial/retail property in Milpitas may submit property information to the City resulting in an on-line property listing service to assist in filling vacant commercial property and to market and recruit business. Mr. King emphasized there would be no additional cost to the City as the program would use currently owned software and hardware and the program could be operational by the end of July.

Vice Mayor Dixon inquired if the program was just for commercial property. Mr. King responded yes, the reason being to promote business. Vice Mayor Dixon further inquired if other cities included residential properties. Mr. King responded no. Vice Mayor Dixon expressed her total support for the concept.

Don Peoples, member of the City's Economic Development Commission, said the Commission talked about this issue and the fact that it would help business, especially in the downtown area where office and commercial space was available. Mr. Peoples said it would be an excellent way to locate those spaces that are difficult to locate.

Vice Mayor Dixon said she thought it would also complement the Chamber of Commerce. Frank DeSmidt, member of the Economic Development Commission, said the Commission discussed industrial, commercial, and also businesses for sale, and he hoped that could be incorporated as it would be of great value to the community and to the economic stimulus that was needed.

Mayor Esteves asked the City Attorney if there was any exposure to liability. City Attorney Mattas responded the program as designed would involve a disclaimer so the City would not assume any liability for the accuracy of the information.

Mayor Esteves asked if there was a system in place to regularly update the information. Mr. King responded staff would regularly update and purge the information, it was a forum to allow people to participate, and the City would not be responsible for accuracy.

MOTION to authorize the implementation of the Economic Development On-Line Commercial Property Inventory and Search Program.

M/S: Dixon, Polanski.

Ayes: 4

Absent: 1 (Gomez)

ADJOURNMENT

There being no further Council business, Mayor Esteves adjourned the City Council meeting At 10:35 p.m. announcing that the next Council meeting would be August 5, 2003, beginning at 7:00 p.m.

Gail Blalock, CMC
City Clerk

The foregoing minutes were approved by the City Council as submitted on August 5, 2003.

Gail Blalock, City Clerk

Date